

HIPAA-30: Business Associates Policy

Effective Date:	12-01-2015	Last Revised:	7-17-2017
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Scope of Policy

This policy governs relationships with, and operations involving Business Associates for **TCS**. All personnel of **TCS** must comply with this policy. Demonstrated competence in the requirements of this policy is an important part of the responsibilities of every member of the workforce.

Assumptions

- TCS** must comply with HIPAA and the HIPAA implementing regulations pertaining to Business Associates, in accordance with the requirements at § 164.308(b)(1), § 164.410, § 164.502(e), § 164.504(e), and HITECH Act § 13401.
- In cooperation with our organization, Business Associates work with, use, transmit, and/or receive individually identifiable health information, including Protected Health Information ("PHI", as defined by HIPAA), which is afforded specific protections under HIPAA.
- TCS** has the primary responsibility in all Business Associate relationships to ensure that individually identifiable health information, including Protected Health Information ("PHI", as defined by HIPAA), is properly protected and safeguarded.
- The HIPAA ("Omnibus") Final Rule specifically identifies the following types of entities as business associates which may reasonably have electronic or physical access to PHI maintained by **TCS**:
 - Subcontractors.
 - Patient safety organizations.
 - HIOs -- Health Information Organizations (and similar organizations).
 - PHRs -- Personal Health Record vendors that provide services on behalf of a covered entity.
 - Other firms or persons who "facilitate data transmission" that requires routine access to PHI.
- The "Minimum Necessary Standard" now applies directly to Business Associates. HIPAA now applies the Minimum Necessary standard directly to Business Associates and their subcontractors. When using, disclosing or requesting PHI, all these entities must make reasonable efforts to limit Protected Health Information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- Subcontractors of Business Associates are now Business Associates themselves. A subcontractor is defined as a person or entity to whom a Business Associate delegates a function, activity, or service involving Protected Health Information, and who is not a member of the Business Associate's own workforce.
- TCS** is not required to enter into a contract or other arrangement with any their Business Associates subcontractors.

Policy Statement

- It is the Policy of **TCS** to establish and maintain business and working relationships with Business Associates that are in full compliance with all the requirements of HIPAA Final "Omnibus" Rule.

Procedures

- ❑ Responsibility for maintaining appropriate and lawful relationships with Business Associates shall reside with the Executive Director, who shall ensure that all aspects of our Business Associate relationships are appropriate and lawful, and who shall ensure that individually identifiable health information, including Protected Health Information (“PHI”, as defined by HIPAA), is properly protected and safeguarded by our Business Associates.
- ❑ With regard to Business Associates, the duties and responsibilities of the Executive Director shall include, but are not limited to the following:
 - Ensure that all Business Associate contracts meet all HIPAA requirements and standards, including those requirements and standards amended by the HITECH Act, the HIPAA “Omnibus” Final Rule, and any requirements of State laws in the state(s) where we operate.
 - Ensure that individually identifiable health information, including Protected Health Information (“PHI”, as defined by HIPAA), is properly protected and safeguarded by our Business Associates in accordance with the HIPAA Privacy and Security Rules.
 - Ensure that Business Associates understand the importance and necessity of protecting individually identifiable health information, including Protected Health Information (“PHI”, as defined by HIPAA), whether in electronic form (“ePHI”) or hardcopy form.
 - Ensure that Business Associates have proper and appropriate safeguards in place for individually identifiable health information, including Protected Health Information (“PHI”, as defined by HIPAA), before entrusting such information to them.
 - Ensure that Business Associates understand and are properly prepared to detect and respond to breaches of individually identifiable health information, including Protected Health Information (“PHI”, as defined by HIPAA).
- ❑ The Executive Director shall fully document all Business Associate-related contracts and activities, in accordance with our Documentation Policy and the requirements of HIPAA.
- ❑ Business Associate Agreements will be reviewed annually for accuracy and updated as necessary. These documents will be retained for 7 years post termination of the business relationship.